City of Santa Clara, California





Date:

January 23, 2009

To:

City Manager for Council Action

From:

Director of Planning and Inspection

Subject:

Follow Up Regarding Mansion Grove Resident Concerns

EXECUTIVE SUMMARY:

At the Council meeting of December 9, 2008, under Public Presentations, a group of residents from Mansion Grove Apartments addressed the Council regarding the construction activity within the complex. The residents related how the daily work affected most of the site and created ongoing disruption to normal life. They expressed concerns about access to, from and within the site. They noted significant worries about safety of residents moving about, and how daily noise, dust and utility impacts disrupted life. Further, they contended that there was no notification about the rezoning hearings that granted the approval for the 124 apartment units in multiple buildings that were being added to the property.

Council acknowledged the concerns and asked the City Manager to look into the matter and report back in January. The City Manager had noted that Council and the staff had received numerous complaints about this from residents over the past several weeks, and staff had met with both property management and residents at the site. In addition, staff had attempted to initiate a dispute resolution process between the property management and the residents via the services of Project Sentinel. That effort was abandoned due to the fact that legal action had already been filed related to the dispute.

In early January, staff walked the site with a representative group of residents to see the extent of construction activity in order to better understand the basis of their concerns. Staff present for that review included the Director of Planning and Inspection, the Development Review Officer and the Acting Inspection Manager. There was a follow up meeting with the residents at City Hall the following week, as well as a separate meeting at City Hall with the owner's representative, the Senior Development Manager for Prometheus. He has prepared a written statement and prior notices (attached) that address key comments that have come from the resident group during these months of construction.

This report provides a background on the project, a summary of concerns presented by the residents' group and a summary of the property owner's efforts. Staff has made some recommendations to deal with this project going forward and with similar projects in the future. More detailed information is provided in the DISCUSSION section of this report.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

Identification and implementation of improvements in the process may help current and future residents in similar large projects.

ECONOMIC/FISCAL IMPACT:

There is no cost to the City other than contractual and administrative staff time and expense.

RECOMMENDATION:

That the Council accept this report and direct the City Manager to:

- 1. Complete and carry forward the proposed tenant notification procedures for future projects for Council consideration and approval and referral back to the City Manager for implementation;
- 2. Direct Planning and Inspection staff to work with the property owner and tenants, to the extent possible, to evaluate and improve the existing construction management plan for the property; and
- 3. Develop a standard for a construction management and tenant communication plan for large construction and remodel projects in occupied complexes, with implementation to occur early in the project approval process.

Kevin L. Riley, AICP

Director of Planning and Inspection

THE VISIT

Jennifer Sparacino City Manager

Documents Related to this Report:

1) Prometheus Letter to City Planning Director, dated January 16, 2009

• Attachment: Mansion Grove Apartments Enhancement Project Resident Notice, dated February 25, 2008

2) Updated Mansion Grove Apartments Enhancement Project Resident Notice, dated May 27, 2008, w/ map

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DISCUSSION:

The project was approved by Council in January 2008 as an amendment to the Planned Development (PD) zoning plan. The Planning Commission and City Council each held one public hearing on the zoning application, each of which was noticed in the regular manner of hearing, with notices mailed to property owners within 300 feet of the site and also posted on public poles within the 300 foot radius of the site. Permits for construction were granted in the Spring of 2008.

The project involves construction of 124 new apartments in 7 buildings within this complex that currently is comprised of 876 apartments with some under-building parking garages. The majority of the new structures are situated upon open parking areas between buildings, creating some situations where new buildings are close to existing buildings, but at the same time resulting in minimal impact on open landscaped areas of the complex that are around the buildings. The primary open space, the Lick Mansion conservation area, is open space for the residents by rights established during the original entitlements for the entire complex.

While there have been a number of apartment projects that have undergone remodels over the years, there is no example of a similar project in the City that has added a substantial number of units to an existing occupied complex. The City has approved and conducted inspections on apartment remodel work within existing complexes, but has not had a project of this scope, with significant new construction, in an occupied complex until this project. The City applies standard procedures and practices to construction projects and Building Inspection staff monitors these. Standard practices for fencing off work areas, moving equipment and materials around the construction zones and similar daily construction activity is a greater challenge in an occupied complex, particularly during the heavy construction work related to utility trenching, pouring foundations and framing.

The challenges of significant construction in an occupied complex may depend upon how construction is timed and phased. For example, the interim parking situation is one key complaint from the resident group, as all seven buildings are under construction simultaneously, such that access and parking are affected across the entire site. Much of the parking and access has been lost during construction, but is to be returned to use or added under the new buildings when construction is completed. An alternative such as phasing the seven buildings might have reduced some of the overall parking impact, but would have stretched the construction period.

The City regulates development through land use and zoning regulations that define the final product. The public hearing process requires notification by State and City regulations but does not require notification of tenants on rental properties. Only in PD conversions of apartments to condominiums are there tenant notifications, due to the long term impact on the rental market availability. Building codes address proper construction methods; City inspectors only monitor proper construction compliance with codes. Contractor practices are overseen by building inspectors in all new construction, but in this occupied complex situation, City inspectors have needed to be and have been more diligent about watching and correcting unsafe practices when they are seen. City inspectors are on site only a portion of a given work day, when an inspection has been called for by the contractor. At all times it is the ultimate responsibility of the contractors to abide by occupational safety practices and to be diligent about tenant safety and consideration on an occupied site.

Construction has been anticipated to last 15 more months from this point, as all 7 buildings are proceeding concurrently. Again, this means all areas of the property are affected simultaneously, but the overall time

frame for construction is less than it would be in a phased alternative. Utilities and foundations have been completed, so that trenching and ground work should not continue in any significant way. As framing and exterior work is completed, less disruption should be evident. The parking problems and other issues highlighted below demonstrate that such an ambitious construction endeavor might benefit from earlier and more far-reaching construction planning.

Resident Concerns:

Residents of the property expressed concern that notice about the zoning hearings did not reach them and notification of the changed construction conditions came late from the owner. They have also stated that safety concerns and disruption of daily life have not been properly handled by property management. Some of the concerns expressed to staff include:

- 1. Notice of the entitlement process regarding the significant change in the property was lacking;
- 2. Notice of construction came late (May), just as construction was to proceed;
- 3. Rent discount offerings and practices have been disproportionate with conditions and unfairly applied;
- 4. Residents have been unable to meet as a group with on-site management to discuss problems;
- 5. Generally the contractor is reactive, rather than proactive regarding problems;
- 6. Alleged unsafe construction practices are common by the contractor and go uncorrected;
- 7. Construction areas and hours conflict with schoolchildren leaving and entering the site;
- 8. Management of traffic on the site by the contractor has been spotty;
- 9. Temporary parking is insufficient and lacks safe lighting; trash enclosures occupy some stalls;
- 10. Work in hazardous soil remediation area is unsettling and safe conditions are uncertain.

Owner Position:

The owner's representative indicates that they have a similar project underway in Cupertino, but this is their first venture into this type of a project where there is significant ground-up construction in an occupied complex. The owner understands that the quality of life is affected by the construction but feels they have been proactive (notices February and May 2008) and responsive. They have highlighted the following points:

- 1. The internal decision to actually move on the project comes after entitlements are granted by the City;
- 2. Rent discounts have been offered but vary with lease conditions;
- 3. Term leases are individualized and confidential; they are not shared in an open setting;
- 4. A Resident Relations office was established to meet with individuals about their concerns;
- 5. Pre-construction planning was shared with residents at a meeting and changes were instituted as a result;
- 6. Accommodations have been made for affected services and amenities, such as temporary water shut-offs;
- 7. Construction hours have been altered to a later start (8:00 AM instead of 7:00); work ends by 4:00 PM;
- 8. Regular weekly meetings are held between management and the contractor to deal with issues;
- 9. All work in the soil remediation area has been in accordance with DTSC rules and practices;
- 10. New tenants have signed leases during construction; occupancy remains about 95 percent.

Construction would most markedly affect residents who are at home during the work day, particularly during phases of heavy construction that involve site work and construction of the foundations and framing. The complaints and responses are suitable for mediation intervention, such as provided by entities such as Project Sentinel, but this option has not been accepted by all parties due to a pending legal action. City inspection

staff has been diligent to keep eyes open for unsafe conditions and practices when on the site and has met with the contractor on various occasions to review construction practices in this setting.

The City does not regulate management-tenant relations. However, earlier notice of the project may have allowed tenants to make decisions about staying or leaving at opportune times, where many feel they had last-minute notice to make significant decisions that affect family life. City staff is currently working on revised notice procedures to broaden the scope of residents to be informed. This proposal has been reviewed by the Planning Commission, who provided comments to staff, and it will ultimately be coming to Council for review and adoption. Programming changes in the City's Geographic Information System (GIS) are currently underway and will facilitate this procedure, reducing staff time and cost that will make tenant notification viable and efficient.

Typically the City does not regulate construction phasing, but has worked with property managers to address issues such as parking and services affected during improvement projects. There is no question that substantial construction on a property will affect those who live there during that work, but early planning and phasing should alleviate worst case conditions. Were this project phased rather than constructed in all areas simultaneously, the overall disruption may have appeared less, but the time frame of construction would have been longer. The benefit of one approach over the other is debatable, but in any such future projects, staff may ask that phasing and construction plans be shared and reviewed early in the process. In some future projects it may be suitable to incorporate some type of construction management and tenant communication plan that will give residents early notification and input into the process. While the property owner will still have cost and timing considerations that will necessarily affect construction phasing and measures, this kind of a management plan should help all parties to anticipate and deal with construction activity.

City inspection staff will continue to monitor this project diligently when they are on site and will make efforts to visit the site more frequently as work loads permit.

O PROMETHEUS

January 16, 2009

Kevin Riley City of Santa Clara Director of Planning and Inspection 1500 Warburton Avenue Santa Clara, CA 95050 RECEIVED

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City of Santa Clara Planning Division

Dear Kevin,

I am writing in response to your request for a detailed account of our efforts at Mansion Grove over the past year since the City Council formally approved our application to develop 124 new apartment units in 7 buildings across the site.

There are a multitude of logistical challenges to face when constructing a project of this size and complexity in multiple locations on a large existing site. Although we have performed large scale capital improvement projects on our existing properties before, it is fair to say that the construction of this many new apartment structures simultaneously on such a large dense site represents "new territory in terms of scope" for our firm. Despite our best efforts to plan for every eventuality that could have occurred we have experienced more than our share of surprises during the construction of this project. However, overall the construction continues to progress very well and we are ultimately pleased with the progress to date.

One unfortunate surprise has been the response that this project has received from a small, very vocal, group of residents on the site that have chosen to file a lawsuit against our firm. In our opinion we have made good faith efforts as a landlord to clearly communicate with all of our residents as well as to try and preserve their quality of life inasmuch as is possible during a project of this magnitude. Although we have not always been perfect in our efforts thus far, we have certainly tried to live up to our reputation of successfully and responsibly managing our properties while treating our residents with courtesy and respect.

The following list is an attempt to respond to the feedback from our residents that you shared with us after your site visit on 1/8/09.

1. Adequate Notice & Communication - On 1/8/08 we received City Council approval for the addition of 7 new buildings (124 units) to the existing Mansion Grove community. We then spent some time obtaining 'internal' approval to proceed with the development. Once we had the 'green light' we sent out a letter to our residents announcing the upcoming improvements to the site, which included a remodeled Recreation/Leasing building as well as the 124 new units. (see attached letter dated 2/25/08).

We then continued to process our plans through the City for the Recreation/Leasing center remodel and the New Units. After we built a temporary leasing office on site in April, we closed down the main leasing office and began its remodel in the second week of May 2008. Our residents were given written notice before each of these activities occurred. On May 29th we held a resident meeting on the property to discuss the logistics of the new development and to answer questions from the residents. About 60-70 people attended the meeting which was held in the early evening. During the meeting we shared our plans for the buildings, our tentative schedule, set expectations for site safety, answered numerous questions, etc. The first construction fences were placed for Building A next to the main leasing office the week of June 16, 2008.

Over the past 2 years we have also required that new and renewing residents sign an addendum which says they acknowledge that at some point in the near future we will be renovating our site. As a matter of practice we typically do not announce our plans for specific projects until they are finalized and approved internally, which is consistent with the methodology that we followed at Mansion Grove.

Shortly after the start of construction activities we met with representatives from the City as well as the aforementioned small vocal group of residents on site to discuss some of their concerns about the project. One important thing we heard at that meeting was that they desired to know more about what would be happening on a daily basis on the site. As a result we dedicated a portion of our website to "Construction Updates" found at www.mansiongrove.com. This has proven to be a very effective communication tool that we update on a weekly basis. It is also emailed weekly to all resident who provide us with an email address and hardcopies are placed in boxes in every mailbox area for those who would like a paper copy. We also routinely receive resident feedback via this website.

2. Parking Reduction – We knew that on site parking would be one of our biggest challenges during the construction of the new units. We studied the parking areas and ratios extensively in the context of where our construction fences would be located and what the typical demand would be from the residents. We estimated our demand at 1.48 spaces per apartment based on a previous parking study conducted when the property was at 96% occupancy. After counting all of the spaces that would be available during construction we came up with a construction ratio of 1.45 spaces per apartment, slightly less than our demand ratio. However, this figure did not include 52 spaces available at the Rec/Lsng Building and the Mansion parking lots combined. When these spaces are added to the total number of spaces the ratio is 1.51 which exceeds the forecasted demand.

Now that construction in each building area is underway, parking on site although available, has been tight. Understandably this is a source of frustration and inconvenience for some of our residents. The fact that our occupancy rate has continued to be high, at around 94% currently, combined with the unforeseen situations where we have needed to take away some parking spaces to facilitate the work on site have only complicated the issue. For instance, we had to eliminate some ADA spaces early on during the construction to maintain

equipment 'turn around' areas. This was quickly corrected and other ADA spaces were added in the same area. We also had to use several parking spaces throughout the site to stage trash enclosures, since the demolition of several trash enclosures was part of the construction of the new buildings. To ensure that we would have adequate parking we leased an off site parking lot at Wyse Technology Inc., off of North First Street just one block behind the site on the other side of the Guadalupe for our residents and subcontractors to use on a daily basis. If residents choose to park their primary vehicle or store a seldom used vehicle there then we give them a break on their rent.

- 3. Rent We received requests during our meeting in May and shortly thereafter for rent reductions due to the construction conditions on the site. Some of the residents at the May meeting wanted to discuss rent reductions as a group. We invited each of the residents to come to the leasing office and meet with our Resident Relations personnel or the General Manager to discuss their individual lease terms. It is our policy not to share the details of any lease with anyone other than the lessee(s). Our property management personnel developed a three-pronged internal policy for dealing with rent reduction requests which is still in place, as follows:
 - a. New Rentals (residents moving in after construction began)
 - i. They receive substantially lower market rents that reflect the construction activity on the site.
 - ii. They are able to give a 30 day notice at any time and pay a penalty that is equal to 1 months rent + \$10.00.
 - b. Current residents who have not come up for renewal since construction began.
 - i. We decrease the rental rate, to the "construction rate", even if they are in the middle of their lease. Normally the discounted rate is effective the following month.
 - ii. They are able to give a 30 day notice at any time and move out, with no penalty
 - c. Current residents who come up for renewal
 - i. We send them a renewal offer letter at the "construction rate" for either a 6,12, or 16 month lease; or they maintain their current (non-discount) rate if they choose to lease from month to month.
 - ii. If they sign a 16 month lease at the "construction rate" the 16th month is free.
 - iii. They are able to give a 60 day notice at any time and move out, no penalty

The market seems to be responding well to this approach. We have continued to lease apartments at what we consider to be above average levels. Since the construction project began in June we have leased 295 apartments and renewed 314 leases, for a total of 609 leases or roughly 70% of the 876 apartments on the site. During this same time 266 residents have chosen not to renew their leases for various reasons. We have also had current residents refer 51 new residents to the community between the months of June and December 2008. Our site occupancy continues to be high at roughly 94% to date.

4. Traffic Control – Car and pedestrian traffic has always been busy at Mansion Grove and the addition of the new units has complicated matters. During our logistics planning with our General Contractor this was a major topic of discussion that received much thought and planning. Currently on site there are few sidewalks that connect many of the building areas so pedestrians tend to use the drive aisles for circulation. To ease some of this congestion at the first Lick Mill entrance to the property, we installed a new sidewalk and gate as one of our first activities on site. We subsequently added new sections of sidewalk in front of building 450 as well to keep pedestrians off of the drive aisle near building C. We also installed additional speed bumps along the drive aisles to slow down resident traffic as well as construction vehicle traffic. We have also listened to residents when they have suggested improvements that could be made on the site, for example we are preparing to install a convex mirror apparatus to allow greater visibility along the drive aisle at Building F.

We worry constantly about preventing accidents on the site for both our residents and our General Contractor and their Subcontractors. During our weekly meetings we strongly encourage and require our General Contractor to strictly enforce their jobsite safety plan, especially those sections dealing with construction vehicle traffic, providing flag persons, using proper signage, trench safety, etc. We take the safety of our residents seriously and we realize that closely monitoring and controlling the pedestrian and vehicle traffic flow on the site is one of the most important ways we can ensure there are no accidents.

- 5. Noise, Dust, Cleanliness As with any construction project there is going to be noise and dust associated with the prosecution of the work. One way we control the noise is to start later than the City of Santa Clara allows us to start. We delay our start of work until 8am each day. We also try to start very disruptive activities such as utility work in the streets, etc. until after commute hours. We routinely sweep the streets and police the construction fence lines and areas within the fences to remove construction debris on a daily basis. When we had to stockpile dirt on some of the building pads the dirt was covered with plastic to prevent the spread of dust. The scaffolding of buildings is wrapped with fabric to prevent materials from blowing outside of the building areas. Every effort is made by our General Contractor as well as our maintenance personnel to keep the site as clean and as presentable as possible.
- 6. <u>DTSC Notice</u> We are just finishing up the foundation work at Building G on the site. This particular area of the site was originally built over a plume of chlorinates/solvents which has been disclosed to all of the residents at the time they signed their lease. We met with the Department of Toxic Substances Control (DTSC) to develop a work plan for building on this part of the property. That plan had extensive requirements that our Contractor had to follow during the grading portion of the work. A work notice was sent by DTSC to all of the surrounding residents to advise them that this work was going to occur. We also gave a copy to each of our new lessees in this area of the site.

 Our Contractor has followed all of the protocols set forth in the work plan. The work plan has been monitored directly by DTSC as well as a third party. Daily

and sometimes hourly tests of the soils that have been generated from the grading of that site have been found to contain no harmful levels of any of the subject contaminants. We are very pleased with the care and diligence our General Contractor has used in coordinating with all parties including DTSC and the third party inspectors on this site. DTSC has indicated that once we pour the concrete for Building G our work plan will be complete and we do not have to keep distributing the work notice to new residents.

7. Inconveniences / Quality of Life – We understand that living on a site where construction taking place is not ideal. We understand that it may be frustrating for some residents more than others, especially those that are home during the day. To this end we have tried to make life more pleasant at Mansion Grove by proactively thinking of ways to ease the impact of some of our construction activities.

This past summer when the Rec/Lsng Building was shut down management purchased tents, misting fans, and inflatable bounce house equipment for our residents and their children to enjoy on the Mansion lawns. Management provided food and drink and welcomed all residents to enjoy a nice summer break.

Since our fitness center was unavailable for the summer months during the Rec/Lsng remodel, fitness passes to local gyms were given to residents that desired to continue their regimens. Management also planned additional fitness runs, boot camps, and aerobic classes in the park during the nice summer weather while the gym was being remodeled. The new gym is now up and running and the new lounge, theatre room and pool deck remodels are finished. Management is planning a whole new slate of activities to engage and relax our residents using this newly remodeled facility, including the recent addition of free WiFi access in our lounge area.

Also, in anticipation of any potential shut downs of potable water to the buildings on site due to our construction activities, management delivered a case of 6-one-gallon containers of water to all of our apartments for emergency use. During the Silicon Valley Power shut down and transfer of electrical lines that impacted some of our residents, management gave the residents movie tickets, Safeway gift cards, and opened a hospitality suite on site for them to use during the day. When we relocated the garage entrances to two of our buildings we provided complimentary car wash coupons to residents in the affected buildings. We know that living with construction activities on site does not make for a very idyllic setting. Our Team's goal is to continue to make life as comfortable and hospitable as possible for our residents over the course of the next fifteen months until we have finished construction and Mansion Grove has returned to its full splendor.

We will continue to do our best to take good care of our residents at Mansion Grove and to address all of their concerns. We will also continue to be vigilant in our construction efforts to ensure that the project continues to progress smoothly and hopefully without any serious incident. We appreciate your time and efforts spent with our residents on

behalf of the City of Santa Clara. We are at your disposal should you need additional information regarding our efforts at Mansion Grove.

Sincerely,

Nathan Tuttle

Senior Development Manager

Prometheus Real Estate Group, Inc.

MANSION GROVE APARTMENTS

February 25, 2008

Re: Mansion Grove Enhancement Project

Dear Resident(s):

For some time now, Mansion Grove has been exploring the idea of a community expansion as well as an upgrade to the Leasing Center to make it more user friendly and comfortable for our residents. However, before finalizing the leasing center plans, we reviewed the recent resident satisfaction survey and took some of your most requested items into consideration. With your assistance we are now very excited to announce the upcoming Mansion Grove Enhancement Project. This project is currently planned to include the following:

- 1. **Newly Remodeled Leasing Center** (This will include an upgraded lounge area with a state of the art kitchen)
- 2. Larger Fitness Room with all New Fitness Equipment (Per your suggestions there will be an increased number of Cardio Machines)
- 3. **Business Center** (Computers available for resident use)
- 4. **Movie Theater Room** (will seat 15 to 20 and be available to rent for private resident parties)
- 5. **Larger Apartments** (In addition to the upgraded recreation facility, we will be adding 124 new larger 1br and 2br apartments. The first apartments are currently scheduled to be available in 2009/2010)

We plan to start construction on the first 4 items listed above in April, and we plan to be finished with that work by early August of this year. All of the work will be professionally designed, managed, and sequenced to cause the least amount of inconvenience to our residents and to allow the construction crews to complete their work as efficiently as possible. We anticipate the bulk of the work to occur during normal business hours and we will require work areas to be maintained in an organized fashion throughout construction.

We know that clear and consistent communication will be critical as we go through this enhancement project together and so we will update you regularly as plans progress and schedules become more definite. We also understand that you may experience some minor inconveniences associated with this work so we will have designated staff members and on-site offices available to answer your questions and to assist you throughout the process.

We are excited about bringing a new level of amenities to Mansion Grove. We believe this work will enhance what is already one of the most desirable locations in Santa Clara. Rest assured that we remain dedicated to maintaining the level of customer service that you deserve; if you have any questions please don't hesitate to call or come by.

Sincerely,

Tom Holman General Manager - Mansion Grove Apartments

MANSION GROVE APARTMENTS

May 27, 2008

Re: Update of the Mansion Grove Enhancement Project

Dear Resident(s):

Approximately 3 months ago Mansion Grove announced the enhancement project. This letter is an Update to the 5 Items that were announced as part of that project. The first 4 items listed below are all located in the Leasing Center where construction has started and is proceeding as planned. We plan to complete the Leasing Center work in September of this year and we will keep you posted as we get closer to the actual date.

- 1. Newly Remodeled Leasing Center
- 2. Larger Fitness Room with all New Fitness Equipment
- 3. Business Center
- 4. Movie Theater Room
- 5. <u>Larger Apartments</u> (In addition to the upgraded recreation facility, we will be adding 124 new larger 1-bedroom and 2-bedroom apartments. The first apartments are currently scheduled to be available in 2009/2010).

Item #5, the construction of 124 larger 1-bedroom and 2-bedroom apartments located in 7 different buildings across the site, will begin in the latter part of June of this year. We of course understand there will be many questions associated with this part of the enhancement project and we will do our best to address them all.

We also recognize that you may experience some inconveniences associated with this work so we will have designated staff members and an on-site office available to answer your questions and to assist you throughout the process.

Please see the attached Construction Map, Question & Answer sheet and Invitation to join us for a Community Meeting about the Project. The Community Meeting will be held on Thursday May 29th at 7pm in the parking lot at the back of the property near the Mansion.

We know that clear and consistent communication will be critical as we go through this enhancement project together and therefore we will update you regularly as plans progress and schedules become more definite.

Sincerely,

Joanna Nouragas Customer Relations Manager - Mansion Grove Apartments



Site Map

Projected Construction Duration 21 Months

Monday ⊶ Friday 8:00AM - 6:00PM Saturday → Only as Needed 9:00AM → 6:00PM

